

Amendment No. 2 to SB1208

**Woodson
Signature of Sponsor**

AMEND Senate Bill No. 1208*

House Bill No. 1452

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40 , Chapter 38, Part 3, is amended by adding the following as a new section:

Section 40-38-303.

(a) In order for a victim of crime to meaningfully exercise the victim's constitutional right to be heard, when relevant, at all critical stages of the criminal justice process, a victim is immune from civil liability or any civil cause of action brought by the offender that arises from the victim's testimony at the offender's hearing before the board of probation and parole, or a panel thereof. Such immunity from suit shall not apply if the victim's testimony is intentionally and maliciously false and defamatory.

(b)

(1) If the offender brings a cause of action against the victim based upon the victim's testimony before the board of probation and parole, or a panel thereof, in spite of the immunity conferred by subsection (a), as an attachment to the complaint, the offender shall proffer all statements made by the victim alleged to be intentionally and maliciously false and defamatory. Within five (5) days the court shall examine the offender's complaint to determine if the statements of the victim proffered by the offender could reasonably be construed as sufficient to overcome the victim's immunity conferred by this section.

(2) If the court finds that the victim's statements to the board of probation and parole, or a panel thereof, may reasonably be construed as intentionally and maliciously false and defamatory, it shall allow the cause of action to proceed.

(3) If the court finds that the offender has not produced sufficient evidence to overcome the victim's immunity conferred by subsection (a), it shall dismiss the cause of action with prejudice.

(4) If the court finds that not only was the action without merit but was brought for the purpose of intimidating, harassing or abusing the victim in violation of Article I, Section 35 of the Tennessee Constitution, it:

(A) Shall notify the appropriate warden of the offender's institution and recommend disciplinary action against the offender, including the loss of sentence reduction credits; and

(B) May prohibit the offender from filing any future actions of a similar nature in such court.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it and shall apply to all applicable causes of action.